



Department of Justice

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SIX INDIVIDUALS, INCLUDING THREE MORTGAGE BROKERS AND A REAL ESTATE AGENT, HAVE AGREED TO PAY CIVIL PENALTIES TO THE UNITED STATES TO SETTLE CIVIL FRAUD CLAIMS

The Defendants Obtained Mortgage Loans Based on Falsified Mortgage Applications to Purchase Investment Properties in Charlotte's Dilworth Neighborhood

CHARLOTTE, N.C. – Six individuals, including three mortgage brokers and a real estate agent, have agreed to pay civil penalties ranging from \$5,000 to \$85,000 to the United States to resolve civil fraud allegations stemming from false statements they made on mortgage loan applications, announced Anne M. Tompkins, United States Attorney for the Western District of North Carolina.

In addition to the civil penalties, Kyle Frey, Adam Goulet, Roger Sterling Moore, William S. Nunemaker, Tyler P. Nunemaker and Daniel Brewton (Defendants) have also agreed to pay to the United States any profits from the sale of the real estate properties they purchased with those loans.

The civil complaints filed against the defendants pursuant to the Financial Institutions Reform, Recovery, and Enforcement Act, ("FIRREA"), allege that beginning in or about 2005 to in or about 2008, the defendants obtained mortgage loans from various financial institutions and purchased real estate properties as speculative investments in Charlotte's Dilworth neighborhood. A federal investigation revealed that the loan applications the defendants submitted contained false statements. The civil complaints filed in U.S. District Court allege that the defendants falsified information on the mortgage applications, including the borrower's income, assets, liabilities, and/or net worth.

According to court records, the defendants also falsely represented on the mortgage applications that they were buying the houses as their primary residences when, in fact, they had no intention of living in them. According to allegations contained in filed documents, the defendants purchased the properties with the intention of building new houses and then selling them quickly for a profit. By representing to the financial institutions that the mortgage loans were for primary residences, the defendants were able to obtain favorable "no recourse" loans, which typically means that if they defaulted on the mortgages, the lender's only recourse would

be against that one property bought and built with the loan and the defendants' other assets would not be at risk. Under such circumstances, a borrower is attempting to use the bank's money, risk free, to speculate in real estate development. The United States contends that through the false statements alleged in these actions, the defendants avoided having to obtain commercial loans, which typically would have required larger down payments, personal guarantees, or the pledging of other assets, and further avoided the risk associated with being personally liable for the success of their real estate speculation.

The defendants were on notice of the requirement to provide truthful statements in mortgage applications as they were either licensed mortgage originators, licensed real estate agents, experienced real estate investors, or closely related to such persons. In addition, all of the misrepresentations were made on the mortgage applications, despite the fact that each loan application contained a warning against making false statements or misrepresentations on the form. The mortgage loans obtained based on the false applications were generally in the range of \$775,000 to \$890,000.

In the FIRREA civil actions filed by the U.S. Attorney's Office, without admitting liability, the defendants have agreed to settle the cases by paying civil penalties ranging from \$5,000 to \$85,000 and to sell properties which the United States alleges were purchased with mortgages obtained by false statements. Also, pursuant to these settlements, the profits – if any – from the sale of these properties will be surrendered to the United States.

Congress enacted FIRREA in 1989 as part of a comprehensive legislative plan to reform and strengthen the banking system and the federal deposit insurance system that protects the public from bank failures. FIRREA also authorizes the Department of Justice to file civil actions to recover monetary penalties of up to \$1 million per false statement made in transactions affecting financial institutions.

In making today's announcement, U.S. Attorney Tompkins thanked the Charlotte Division of the FBI and the Enforcement Division of the North Carolina Office of the Commissioner of Banks for their assistance in investigating this case. The case is being handled by Special Assistant United States Attorney Allison Carroll, and Assistant United States Attorneys Paul Taylor and Mike Savage of the U.S. Attorney's Office for the Western District of North Carolina. The investigation is ongoing.

Copies of the civil FIRREA complaints and consent orders may be found at:

U.S. v. Frey – 3:13-cv-00375

U.S. v. Goulet – 3:13-cv-00376

U.S. v. Moore – 3:13-cv-00536

U.S. v. Brewton – 3:13-cv-00534

U.S. v. T. Nunemaker – 3:13-cv-00538

U.S. v. W. Nunemaker – 3:13-cv-00537

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